

The Honorable James L. Robart

**UNITED STATES DISTRICT COURT WESTERN DISTRICT OF
WASHINGTON AT SEATTLE**

LIFEGOALS CORP., a Kentucky
corporation,

Plaintiff,

v.

ADVANCED HAIR RESTORATION LLC,
a Washington limited liability company,

Defendant.

ADVANCED HAIR RESTORATION LLC,
a Washington limited liability company,

Third-Party Plaintiff,

v.

JERRY DAVIS, individually and his
marital community,

Third-Party Defendant.

NO. 2:16-cv-01733-JLR

STIPULATED PROTECTIVE ORDER

(proposed)

JLR

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, LifeGoals Corp., Advanced Hair Restoration, LLC, and Jerry Davis hereby stipulate to and petition the court to enter the following Stipulated Protective Order. It does not confer blanket protection on all disclosures or responses to discovery, the protection

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1 it affords from public disclosure and use extends only to the limited information or
2 items that are entitled to confidential treatment under the applicable legal principles,
3 and it does not presumptively entitle parties to file confidential information under seal.

4 **2. "CONFIDENTIAL" MATERIAL**

5 "Confidential" material shall include the following documents and tangible things
6 produced or otherwise exchanged: AHR's customer lists, AHR's business contracts,
7 AHR client-related information, photographs of AHR's patients, business offices, and
8 operating rooms, AHR sales leads, AHR marketing efforts, various AHR patient files,
9 AHR pricing information, AHR legal forms, and AHR internal pricing figures and data.
10 It also includes any other material or documents stolen from AHR by Jerry Davis
11 and/or any of the entities commonly known as LifeGoals. It shall also include
12 anything responsive to a discovery request by Jerry Davis or any of the entities
13 commonly known LifeGoals that is reasonably labeled as "confidential" by AHR's
14 counsel in light of AHR's counsel determining such things constitute AHR's
15 confidential and protected business information and/or trade secrets.

16 **3. SCOPE**

17 The protections conferred by this agreement cover not only confidential material
18 (as defined above), but also (1) any information copied or extracted from confidential
19 material; (2) all copies, excerpts, summaries, or compilations of confidential material;
20 and (3) any testimony, conversations, or presentations by parties or their counsel that
21 might reveal confidential material. However, the protections conferred by this
22 agreement do not cover information that is in the public domain or becomes part of
23 the public domain through trial or otherwise.

24 **4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL**

25 4.1 Basic Principles. A receiving party may use confidential material that is
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1 disclosed or produced by another party or by a non-party in connection with this case
2 only for prosecuting, defending, or attempting to settle this litigation. Confidential
3 material may be disclosed only to the categories of persons and under the conditions
4 described in this agreement. Confidential material must be stored and maintained by
5 a receiving party at a location and in a secure manner that ensures that access is
6 limited to the persons authorized under this agreement.

7 4.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
8 ordered by the court or permitted in writing by the designating party, a receiving party
9 may disclose any confidential material only to:

10 (a) the receiving party's counsel of record in this action, as well as
11 employees of counsel to whom it is reasonably necessary to disclose the information
12 for this litigation;

13 (b) the officers, directors, and employees of the receiving party to whom
14 disclosure is reasonably necessary for this litigation, unless the parties agree that a
15 particular document or material produced is for Attorney's Eyes Only and is so
16 designated;

17 (c) experts and consultants to whom disclosure is reasonably necessary
18 for this litigation and who have signed the "Acknowledgment and Agreement to Be
19 Bound" (Exhibit A);

20 (d) the court, court personnel, and court reporters and their staff;

21 (e) copy or imaging services retained by counsel to assist in the
22 duplication of confidential material, provided that counsel for the party retaining the
23 copy or imaging service instructs the service not to disclose any confidential material
24 to third parties and to immediately return all originals and copies of any confidential
25 material;
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1 (f) during their depositions, witnesses in the action to whom disclosure is
2 reasonably necessary and who have signed the "Acknowledgment and Agreement to
3 Be Bound" (Exhibit A), unless otherwise agreed by the designating party or ordered
4 by the court. Pages of transcribed deposition testimony or exhibits to depositions that
5 reveal confidential material must be separately bound by the court reporter and may
6 not be disclosed to anyone except as permitted under this agreement;

7 (g) the author or recipient of a document containing the information or a
8 custodian or other person who otherwise possessed or knew the information.

9 4.3 Filing Confidential Material. Before filing confidential material or discussing
10 or referencing such material in court filings, the filing party shall confer with the
11 designating party to determine whether the designating party will remove the
12 confidential designation, whether the document can be redacted, or whether a motion
13 to seal or stipulation and proposed order is warranted. Local Civil Rule 5(g) sets forth
14 the procedures that must be followed and the standards that will be applied when a
15 party seeks permission from the court to file material under seal.

16 5. DESIGNATING PROTECTED MATERIAL

17 5.1 Exercise of Restraint and Care in Designating Material for Protection.
18 Each party or non-party that designates information or items for protection under this
19 agreement must take care to limit any such designation to specific material that
20 qualifies under the appropriate standards. The designating party must designate for
21 protection only those parts of material, documents, items, or oral or written
22 communications that qualify, so that other portions of the material, documents, items,
23 or communications for which protection is not warranted are not swept unjustifiably
24 within the ambit of this agreement.

1 Mass, indiscriminate, or routinized designations are prohibited. Designations
2 that are shown to be clearly unjustified or that have been made for an improper
3 purpose (e.g., to unnecessarily encumber or delay the case development process or
4 to impose unnecessary expenses and burdens on other parties) expose the
5 designating party to sanctions.

6 If it comes to a designating party's attention that information or items that it
7 designated for protection do not qualify for protection, the designating party must
8 promptly notify all other parties that it is withdrawing the mistaken designation.

9 5.2 Manner and Timing of Designations. Except as otherwise provided in this
10 agreement (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
11 stipulated or ordered, disclosure or discovery material that qualifies for protection
12 under this agreement must be clearly so designated before or when the material is
13 disclosed or produced.

14 (a) Information in documentary form: (e.g., paper or electronic documents
15 and deposition exhibits, but excluding transcripts of depositions or other pretrial or
16 trial proceedings), the designating party must affix the word "CONFIDENTIAL" to
17 each page that contains confidential material. If only a portion or portions of the
18 material on a page qualifies for protection, the producing party also must clearly
19 identify the protected portion(s) (e.g., by making appropriate markings in the
20 margins).

21 (b) Testimony given in deposition or in other pretrial or trial proceedings:
22 the parties must identify on the record, during the deposition, hearing, or other
23 proceeding, all protected testimony, without prejudice to their right to so designate
24 other testimony after reviewing the transcript. Any party or non-party may, within
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1 fifteen days after receiving a deposition transcript, designate portions of the
2 transcript, or exhibits thereto, as confidential.

3 (c) Other tangible items: the producing party must affix in a prominent
4 place on the exterior of the container or containers in which the information or item is
5 stored the word "CONFIDENTIAL." If only a portion or portions of the information or
6 item warrant protection, the producing party, to the extent practicable, shall identify
7 the protected portion(s).

8 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
9 failure to designate qualified information or items does not, standing alone, waive the
10 designating party's right to secure protection under this agreement for such material.
11 Upon timely correction of a designation, the receiving party must make reasonable
12 efforts to ensure that the material is treated in accordance with the provisions of this
13 agreement.

14 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

15 6.1 Timing of Challenges. Any party or non-party may challenge a designation
16 of confidentiality at any time. Unless a prompt challenge to a designating party's
17 confidentiality designation is necessary to avoid foreseeable, substantial unfairness,
18 unnecessary economic burdens, or a significant disruption or delay of the litigation, a
19 party does not waive its right to challenge a confidentiality designation by electing not
20 to mount a challenge promptly after the original designation is disclosed.

21 6.2 Meet and Confer. The parties must make every attempt to resolve any
22 dispute regarding confidential designations without court involvement. Any motion
23 regarding confidential designations or for a protective order must include a
24 certification, in the motion or in a declaration or affidavit, that the movant has
25 engaged in a good faith meet and confer conference with other affected parties in an
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1 effort to resolve the dispute without court action. The certification must list the date,
2 manner, and participants to the conference. A good faith effort to confer requires a
3 face-to-face meeting or a telephone conference.

4 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
5 intervention, the designating party may file and serve a motion to retain confidentiality
6 under Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable).
7 The burden of persuasion in any such motion shall be on the designating party.
8 Frivolous challenges, and those made for an improper purpose (e.g., to harass or
9 impose unnecessary expenses and burdens on other parties) may expose the
10 challenging party to sanctions. All parties shall continue to maintain the material in
11 question as confidential until the court rules on the challenge.

12 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
13 OTHER LITIGATION

14 If a party is served with a subpoena or a court order issued in other litigation that
15 compels disclosure of any information or items designated in this action as
16 "CONFIDENTIAL," that party must:

17 (a) promptly notify the designating party in writing and include a copy of
18 the subpoena or court order;

19 (b) promptly notify in writing the party who caused the subpoena or order
20 to issue in the other litigation that some or all of the material covered by the
21 subpoena or order is subject to this agreement. Such notification shall include a copy
22 of this agreement; and

23 (c) cooperate with respect to all reasonable procedures sought to be
24 pursued by the designating party whose confidential material may be affected.

25 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL
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1 If a receiving party learns that, by inadvertence or otherwise, it has disclosed
2 confidential material to any person or in any circumstance not authorized under this
3 agreement, the receiving party must immediately (a) notify in writing the designating
4 party of the unauthorized disclosures, (b) use its best efforts to retrieve all
5 unauthorized copies of the protected material, (c) inform the person or persons to
6 whom unauthorized disclosures were made of all the terms of this agreement, and (d)
7 request that such person or persons execute the "Acknowledgment and Agreement
8 to Be Bound" that is attached hereto as Exhibit A.

9 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
10 PROTECTED MATERIAL

11 When a producing party gives notice to receiving parties that certain
12 inadvertently produced material is subject to a claim of privilege or other protection,
13 the obligations of the receiving parties are those set forth in Federal Rule of Civil
14 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
15 may be established in an e-discovery order or agreement that provides for production
16 without prior privilege review. Parties shall confer on an appropriate non-waiver order
17 under Fed. R. Evid. 502.

18 10. NON TERMINATION AND RETURN OF DOCUMENTS

19 Within 60 days after the termination of this action, including all appeals, each
20 receiving party must return all confidential material to the producing party, including
21 all copies, extracts and summaries thereof. Alternatively, the parties may agree upon
22 appropriate methods of destruction.

23 Notwithstanding this provision, counsel are entitled to retain one archival copy of
24 all documents filed with the court, trial, deposition, and hearing transcripts,
25 correspondence, deposition and trial exhibits, expert reports, attorney work product,
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1 and consultant and expert work product, even if such materials contain confidential
2 material.

3 The confidentiality obligations imposed by this agreement shall remain in effect
4 until a designating party agrees otherwise in writing or a court orders otherwise.

5 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

6 Stipulated and dated this 2nd day of March, 2017.

7 MONTGOMERY PURDUE BLANKINSHIP
8 & AUSTIN PLLC

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10 By: /s/ Jay Corker Free
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12 Plaintiff Advanced Hair Restoration
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14
15

16 Stipulated and dated this 2nd day of March, 2017.

17 STEINACKER LAW PLLC

18
19 By: s/ Kevin Steinacker
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20 Attorney for Plaintiff LifeGoals and Third-
21 Party Defendant Jerry Davis
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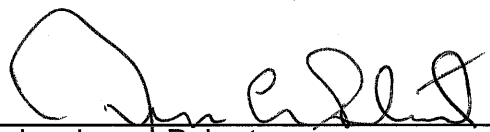
1 Stipulated and dated this 2nd day of March, 2017.

2 KEARNEY LAW

3
4 By: /s/ Mark Kearney
5 Mark Edward Kearney
6 3405 Tishoff Court
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8 Phone: 859-396-7743
9 Email: markkearneylaw@gmail.com
10 Attorney for Plaintiff LifeGoals and Third-
11 Party Defendant Jerry Davis

12 PURSUANT TO STIPULATION, IT IS SO ORDERED.

13 DONE IN OPEN COURT this 8th day of March, 2017.

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15 Judge James Robart
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STIPULATED PROTECTIVE ORDER - 10
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury that
I have read in its entirety and understand the Stipulated Protective Order that was
issued by the United States District Court for the Western District of Washington on
[date] in the case of LifeGoals Corp. v. Advanced Hair Restoration, LLC, Case No.
2:16-cv-01733-JLR. I agree to comply with and to be bound by all the terms of this
Stipulated Protective Order and I understand and acknowledge that failure to so
comply could expose me to sanctions and punishment in the nature of contempt. I
solemnly promise that I will not disclose in any manner any information or item that is
subject to this Stipulated Protective Order to any person or entity except in strict
compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for
the Western District of Washington for the purpose of enforcing the terms of this
Stipulated Protective Order, even if such enforcement proceedings occur after
termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____